

26 March 2024

**Enquiries:** Jenny Elphinstone  
**Our Ref:** MCUC 2024\_5580/1 (Former DSC MCUC 006/06) (Doc ID 1218574)  
**Your Ref:** ECM 17051589

Administration Office  
64 - 66 Front St Mossman  
P 07 4099 9444  
F 07 4098 2902

Ergon Energy Corporation Limited  
PO Box 1090  
TOWNSVILLE QLD 4810

Email: [benjamin.freese@energyq.com.au](mailto:benjamin.freese@energyq.com.au)

Attention Mr Benjamin Freese

Dear Sir

**Development Application for Request for Minor Change (Extension of storage yard)  
At 24-28 Thomas Street, 8, 10 and part of 11 Ingles Street Mossman  
On Land Described as Lots 9-11, 16-18 on RP715930 and Part of Lot 32 on SP202302**

Please find attached the Decision Notice for the above-mentioned development application.

Please quote Council's application number: MCUC 2024\_5580/1 in all subsequent correspondence relating to this development application.

Your attention is drawn to Condition 23 of the approval that remains outstanding, being the requirement to amalgamate the lots.

Should you require any clarification regarding this, please contact Jenny Elphinstone on telephone 07 4099 9444.

Yours faithfully



**For**  
**Paul Hoyer**  
**Manager Environment & Planning**

cc. State Assessment and Referral Agency (SARA) E: [CairnsSARA@dilgp.qld.gov.au](mailto:CairnsSARA@dilgp.qld.gov.au)

RE: Former EPA Concurrence Agency conditions.

encl.

- Decision Notice
  - Approved Drawing(s) and/or Document(s)
  - Reasons for Decision
  - Original Negotiated Decision Notice
- Advice For Making Representations and Appeals (Decision Notice)



## Decision Notice

### Approval (with conditions)

*Given under s 78, 79, 81 and 81A of the Planning Act 2016*

#### Applicant Details

Name: Ergon Energy Corporation Limited  
Postal Address: PO Box 1090  
Townsville Qld 4810  
Email: [benjamin.freese@energyq.com.au](mailto:benjamin.freese@energyq.com.au)

#### Property Details

Street Address: 24-28 Thomas Street, 8, 10 and part of 11 Ingles Street  
Mossman  
Real Property Description: Lots 9-11, 16-18 on RP715930 and Part of Lot 32 on  
SP202302  
Local Government Area: Douglas Shire Council

#### Details of Proposed Development

Minor change application to the Negotiated Decision for Material Change of Use for Public utilities and Facilities MCU 006 /06 for a site upgrade and extension of storage yard.

#### Decision

Date of Decision: 26 March 2024  
Decision Details: The application for a minor change to the Negotiated Decision MCU 006 /06 a material change of use for "Public Utilities and Facilities – Ergon Depot" is approved whereby:

- The site address and Property description are amended as follows:  
Site Address: 24-28 Thomas Street & 8-10 Ingles Street and part of 11 Inglis Street, Mossman  
Property Description Lot 9-11 & Lots 16-18 on RP715930 and part of Lot 32 on SP202302, Parish of Victory, County of Solander
- Condition 1 is amended as follows:
  - The approved development and the conduct of the approved use, the carrying out of any works on the premises and the construction

of any buildings on the premises associated with the development must generally be in accordance with:

- (b) The approved plan of development Drawings No.882 P3 & P4 dated September 2006 prepared by Clarke and Prince Architects attached to this approval; and as varied by the following plans associated with the change application:

**Approved Drawing(s) and/or Document(s)**

The term 'approved drawing(s) and/or document(s) or other similar expressions means:

<b><u>Drawing or Document</u></b>	<b><u>Reference</u></b>	<b><u>Date</u></b>
<u>Site Plan - Existing / Demolition</u>	<u>Clarke and Prince Architects, Mossman Depot Proposed Works, Drawing 1635-SD - A0.01, Revision P3.</u>	<u>19 February 2024</u>
<u>Site Plan - Proposed</u>	<u>Clarke and Prince Architects, Mossman Depot Proposed Works, Drawing 1635-SD - A0.02, Revision P6.</u>	<u>19 February 2024</u>
<u>Proposed Covered Storage 1 &amp; 2</u>	<u>Clarke and Prince Architects, Mossman Depot Proposed Works, Drawing 1635-SD - A0.03, Revision P3.</u>	<u>19 February 2024</u>
<u>Site Plan</u>	<u>Clarke and Prince Architects and MAL Engineers, EQL Mossman Depot, Drawing Q24034-CI-01, Revision A</u>	<u>16 February 2024</u>
<u>Civil Works Plan</u>	<u>Clarke and Prince Architects and MAL Engineers, EQL Mossman Depot, Drawing Q24034-CI-02, Revision A</u>	<u>16 February 2024</u>
<u>Crossover Access Plan</u>	<u>Clarke and Prince Architects and MAL Engineers, EQL Mossman Depot, Drawing Q24034-CI-03, Revision A</u>	<u>16 February 2024</u>
<u>Crossover Section Plan</u>	<u>Clarke and Prince Architects and MAL Engineers, EQL Mossman Depot, Drawing Q24034-CI-04, Revision A</u>	<u>16 February 2024</u>
<u>General Construction Notes</u>	<u>Clarke and Prince Architects and MAL Engineers, EQL Mossman Depot, Drawing Q24034-ST-01 and Q24034-ST-02, Revision 1</u>	<u>12 February 2024</u>

- (c) The plans and specifications submitted with the application to Council attached to this approval

Except where such plans and/or specifications are modified by the terms of this approval.

3. The following additional conditions is included in the approval:
  34. The cost of new fencing is to be borne by the developer.
  35. For development approved under the minor change:
    - a. Prior to the commencement of operational work the applicant must provide a RPEQ Certified design for all operational work to the satisfaction of the Chief Executive Officer and the design must be amended whereby:
      - i. the design is to include suitable splays to enable traffic access for Crossover 2 to be capable of enabling vehicles travelling in either a north or south direction;
      - ii. the upgrade to the kerb, channel and pavement between Crossovers 2 and 3 is also combined into the proposed work design;
      - iii. the design of the new concrete crossovers is to join neatly or to be flush with the existing pavement seal, kerb and channel, is free draining and does not cause ponding of stormwater. Excepting the width of access crossovers, the crossovers are to have appropriate splays to the kerb, channel and road pavement generally as per the standard drawings for the FNQROC Development Manual S1015 and S1110;
      - iv. the minimum width of the grate over the road channel is to be 300mm wide and the drain design is to have sufficient capacity to pass the kerb and channel flow across the crossover with no impact to surrounding properties;
      - v. full construction design is provided including grades concrete design;
      - vi. the design is accompanied by traffic guidance scheme and copy of insurances;
    - b. the work must be undertaken under the supervision of a RPEQ Engineer;
    - c. the applicant must advise the Chief Executive Officer when the work is being constructed so that an inspection can be undertaken; and
    - d. Prior to the commencement of use the applicant must provide a RPEQ Certified statement that all work has been satisfactorily completed to the satisfaction of the Chief Executive Officer.
  36. All external lighting must meet the technical parameters, design, installation, operation and maintenance of outdoor lighting comply with the requirements of Australian standard AS4282-1997 Control of the obtrusive effects of outdoor lighting.
4. The following advices are included:
  1. This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes

effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

2. All building site managers must take all action necessary to ensure building materials and/or machinery on construction sites are secured immediately following the first potential cyclone warning and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
  3. This approval does not negate the requirement for compliance with relevant Local Laws and statutory requirements.
  4. For future use of the premises as a Centre Activities (Food and drink outlet) note that a Trade Waste Permit is usually required for a pre-treatment device (grease trap).
  5. For information relating to the *Planning Act 2016* log on to [www.dsdmip.qld.gov.au](http://www.dsdmip.qld.gov.au). To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to [www.douglas.qld.gov.au](http://www.douglas.qld.gov.au).
5. All other conditions and advices of the Negotiated Decision Notice remain unchanged.

### **Approved Drawing(s) and/or Document(s)**

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Copies of the approved plans, specifications and/or drawings as listed above following are enclosed. **Note** – The plans referenced above will require amending in order to comply with conditions of this Decision Notice.

### **Original Negotiated Decision Notice**

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A copy of the original Negotiated Decision notice is enclosed.

### **Further Development Permits**

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Please be advised that the following development permits are required to be obtained before the development can be carried out:

- All Building Work

All Plumbing and Drainage Work must only be carried in compliance with the Queensland *Plumbing and Drainage Act 2018*.

### **Currency Period for the Approval**

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This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

### **Rights to make Representations & Rights of Appeal**

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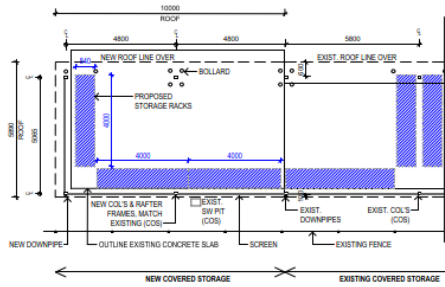
The rights of applicants to make representations and rights to appeal to a Tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*.

A copy of the relevant appeal provisions is attached.

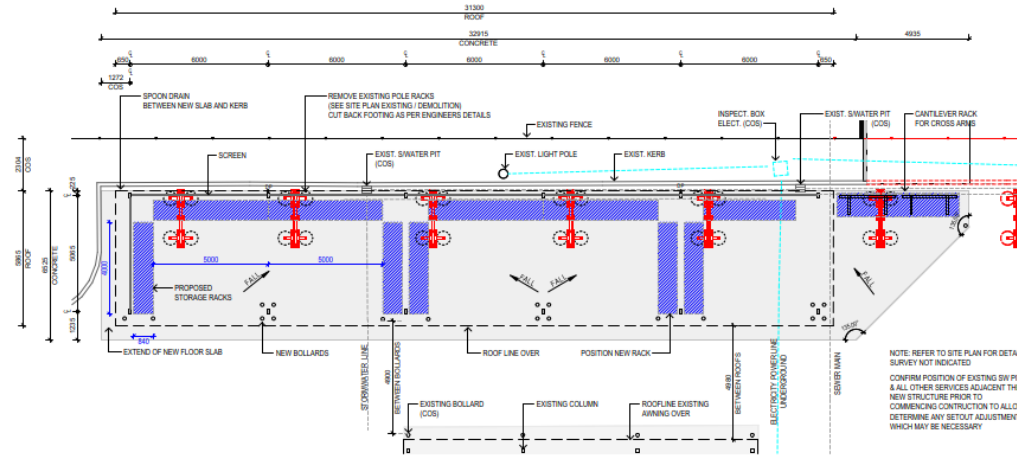




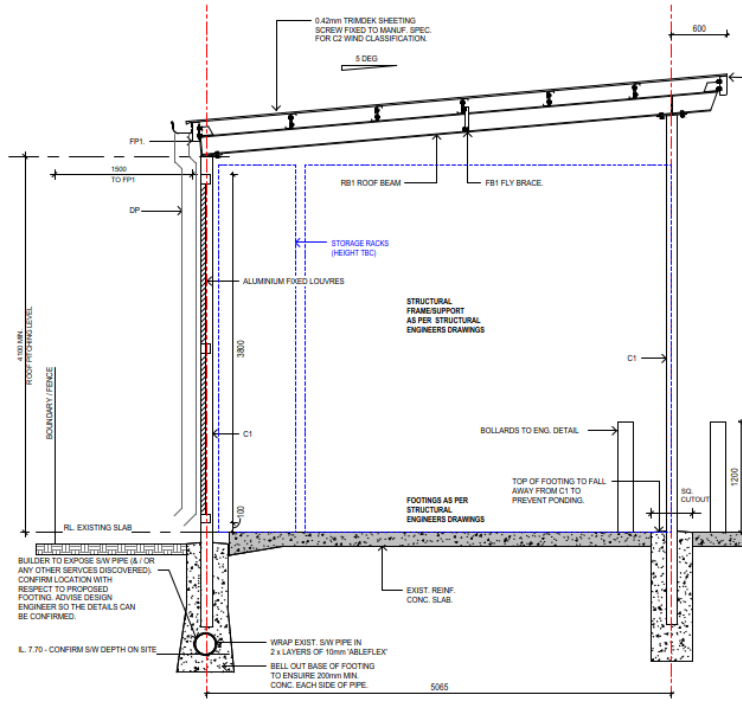




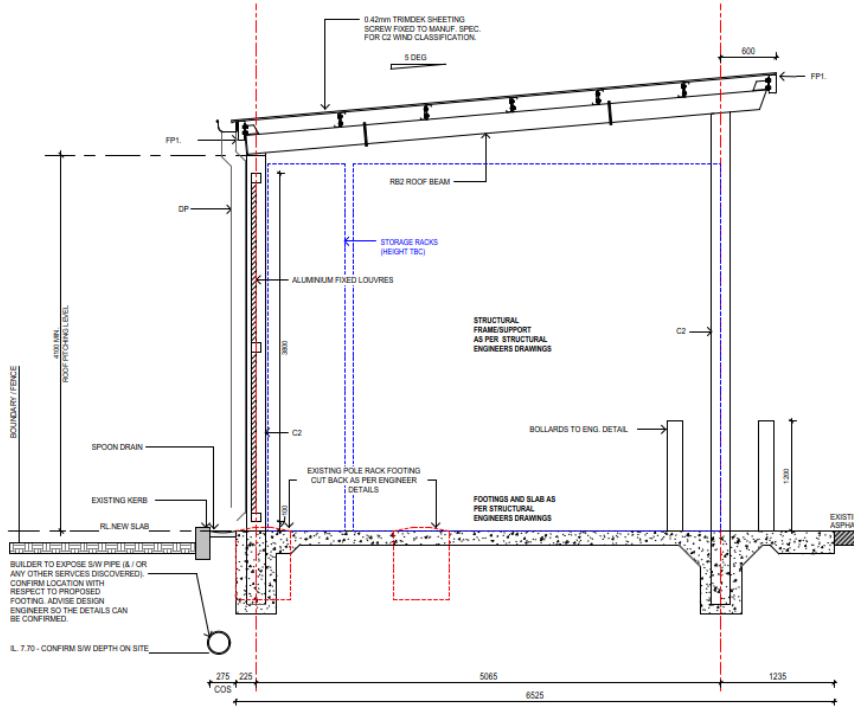
1 FLOOR PLAN - COVERED STORAGE 1 - EXTENSION  
SCALE: 1:100



4 FLOOR PLAN - COVERED STORAGE 2 - NEW  
SCALE: 1:100



3 COVERED STORAGE 1 SECTION  
SCALE: 1:100



2 COVERED STORAGE 2 SECTION  
SCALE: 1:100

AMENDMENTS	DATE
P1 DRAFT - FOR COMMENT	20-07-23
P2 FOR COORDINATION	08-08-24
P3 COUNCIL SUBMISSION	18-02-24



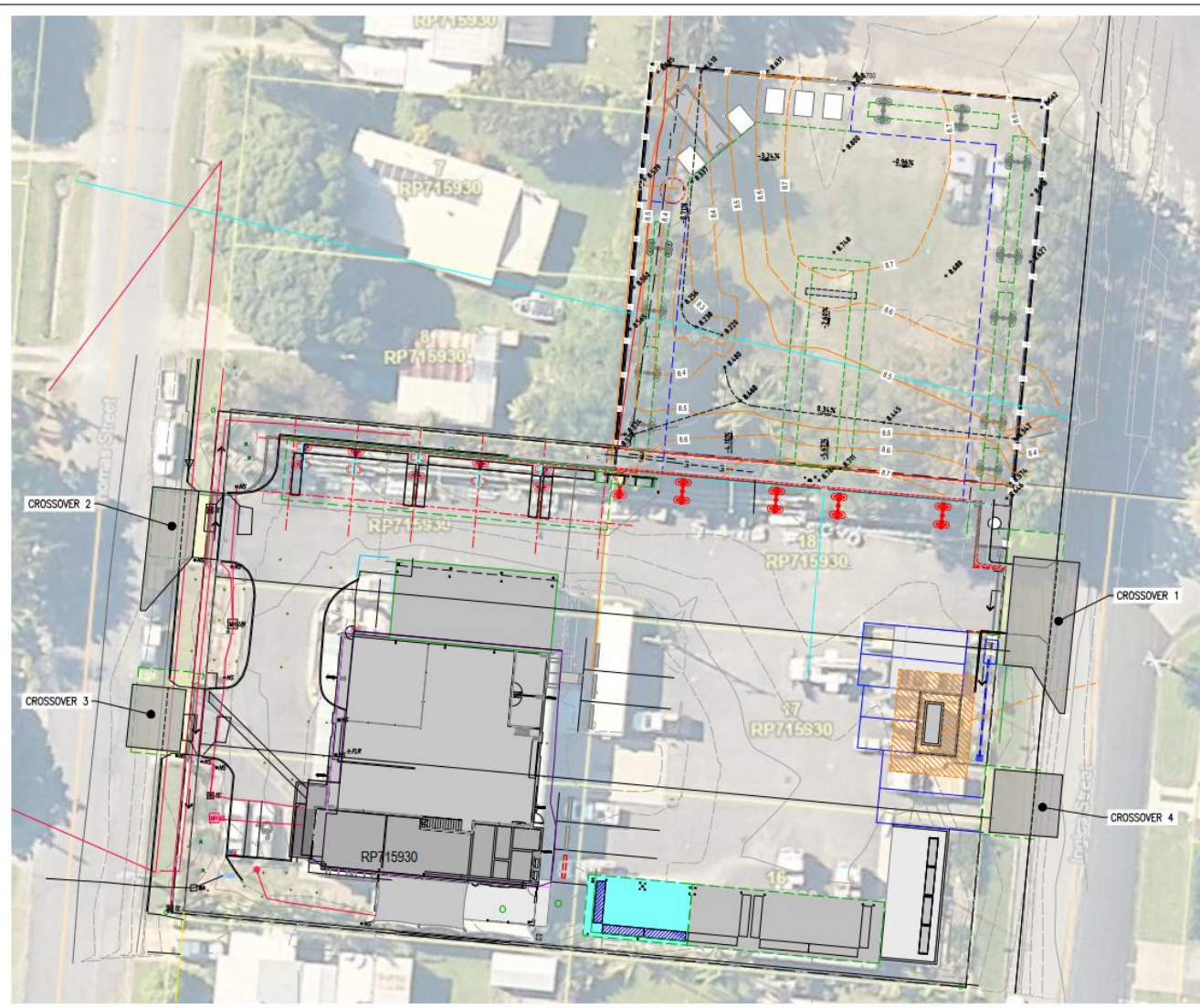
DESIGN AND PREPARE ARCHITECTURE  
 3 South Street (GRANGE) QLD 4070  
 t: 07 4001 4000 | f: 07 4001 1000  
 e: info@energyqueensland.com.au  
 www.energyqueensland.com.au

MOSSMAN DEPOT PROPOSED WORKS  
 LOTS 9-11 & 15-18 ON  
 RP712930 THOMAS & INOLES  
 STREETS, & ADJACENT LEASE  
 AREA  
 ENERGY QUEENSLAND  
 LIMITED

PROPOSED COVERED STORAGE 1 & 2  
 SHEET: 1635-S0 - AD.03  
 DATE: PRELIMINARY  
 P3

DATE PLOTTED: 16 February 2024 9:58 PM BY: ADMIN@HQ

CADD: C:\Users\Alan\OneDrive\Documents\Langford\Consulting\Temp\Fairfield\ERQN\PROJECTS\2024\EQI\_Mossman Depot\Drawings\010101 - Site Leveling



- LEGEND**
- DESIGN SURFACE CONTOUR (0.10m INTERVAL)
  - DESIGN SPOT LEVELS
  - PROPOSED CONCRETE INVERT



**LAYOUT PLAN**  
SCALE: 1:200

Rev.	Date	Description	AR	ML	BL
Des.	Verf.	Appr.			
A	16.02.24	FOR DA APPLICATION			



**CERTIFICATION**

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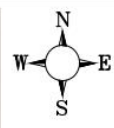
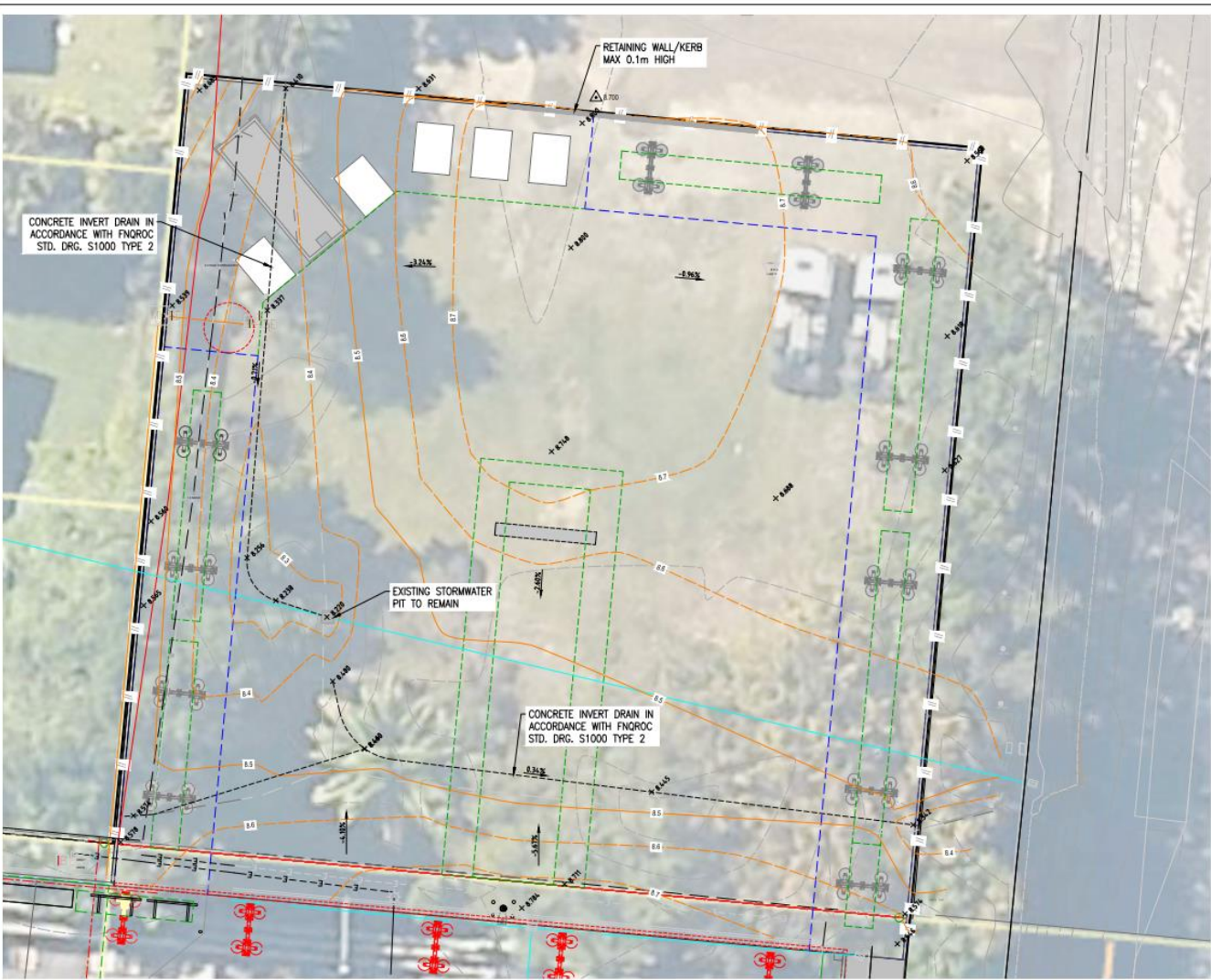
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Design	16.02.24
Checked	16.02.24
ML	16.02.24
Designed	16.02.24
JAN	16.02.24
Verified	16.02.24
ML	16.02.24
Approved	
BLANSTREE	20.10.22

Client	ENERGY QUEENSLAND
Project	EQL MOSSMAN DEPOT
Project	LOTS 9-11 & 16-18 ON RP715930 THOMAS & INGLES STREET & ADJACENT LEASE AREA
Site	SITE PLAN

Status	<b>PRELIMINARY</b>
NOT TO BE USED FOR CONSTRUCTION PURPOSES	
Datum	AS SHOWN
Scale	A1
Drawing Number	Q24034-CI-01
Revision	A

DATE PLOTTED: 16 February 2024 9:58 PM BY: ADMIN@ENQ00

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**LEGEND**

	DESIGN SURFACE CONTOUR (0.10m INTERVAL)
	DESIGN SPOT LEVELS
	PROPOSED CONCRETE INVERT



**CIVIL WORKS PLAN**  
SCALE: 1:100

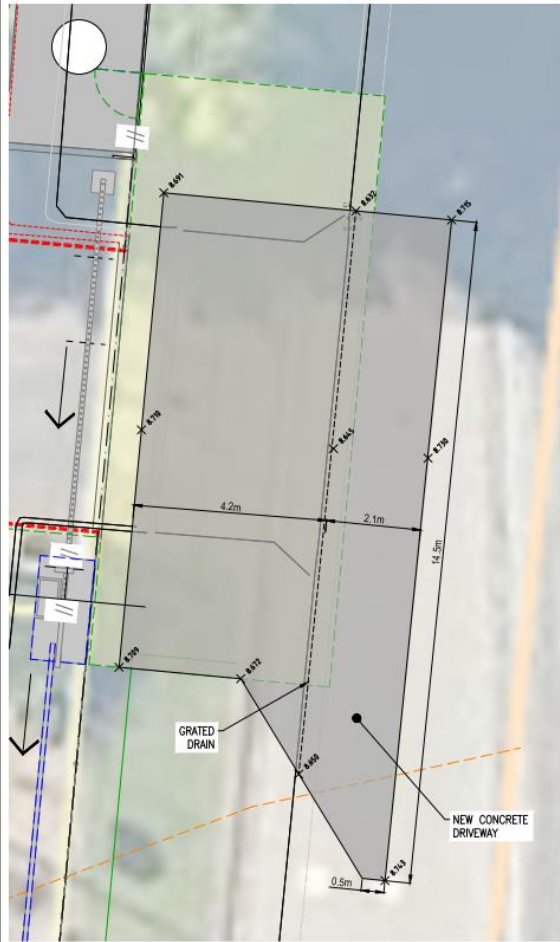
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A	18.02.24	FOR DA APPLICATION	JAR	ML	SL

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Client EQL	Date 16.02.24	Client ENERGY QUEENSLAND
Checked ML	Date 16.02.24	Project EQL MOSSMAN DEPOT
Designed JAN	Date 16.02.24	Project LOTS 9-11 & 16-18 ON RP715930 THOMAS & INGLES STREET & ADJACENT LEASE AREA
Verified ML	Date 16.02.24	Project CIVIL WORKS PLAN
Approved		Status <b>PRELIMINARY</b>
BLANSTREE	20.10.22	NOT TO BE USED FOR CONSTRUCTION PURPOSES
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Revision A		Sheet A1

DATE PLOTTED: 16 February 2024 9:58 PM BY: ADAM@BLANSTREE.COM

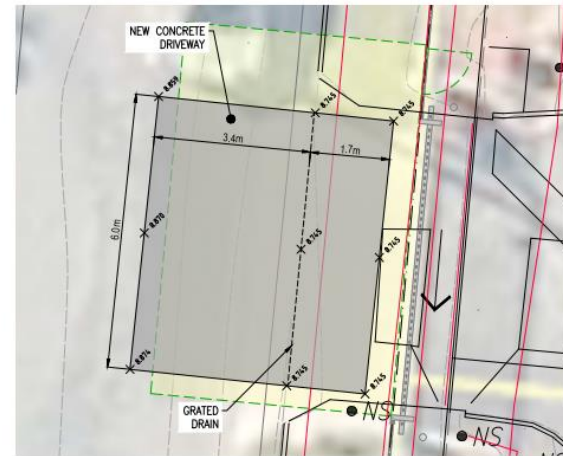
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**CROSSOVER 2 LAYOUT**  
SCALE: 1:50



**CROSSOVER 3 LAYOUT**  
SCALE: 1:50



**CROSSOVER 4 LAYOUT**  
SCALE: 1:50



Rev.	Date	Description	Des.	Verf.	Appr.
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				ML	EL



**CERTIFICATION**

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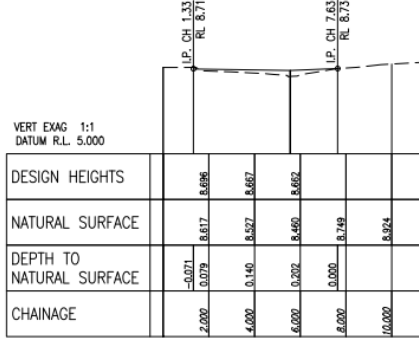
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Verified	16.02.24
ML	16.02.24
Approved	
BLANSTREE	20.10.22

Client	Date
ENERGY QUEENSLAND	16.02.24
Project	ERQN MOSMAN DEPOT
LOTS 9-11 & 16-18 ON RP715930 THOMAS & INGLES STREET & ADJACENT LEASE AREA	
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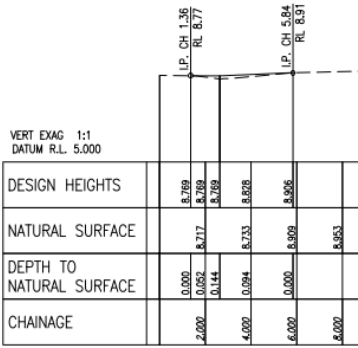
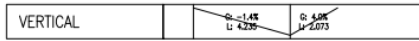
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NOT TO BE USED FOR CONSTRUCTION PURPOSES		
Drawing Number	Revision	
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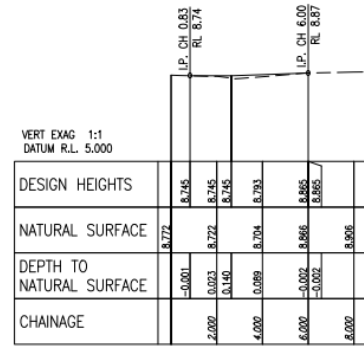
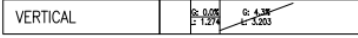
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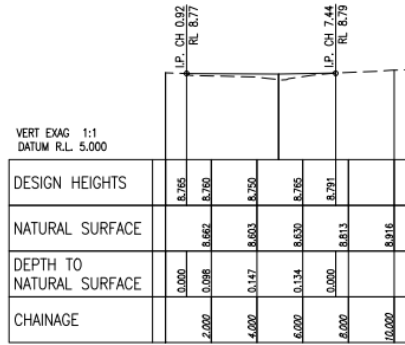
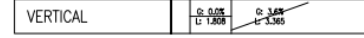
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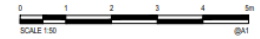
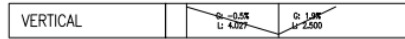
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**CROSSOVER 3 LONG SECTION**  
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**CROSSOVER 4 LONG SECTION**  
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Rev	Date	Description	AR	ML	BL
A	18.02.24	FOR DA APPLICATION			



**CERTIFICATION**  
BLANDTREE REF:02 11032

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Drawn	AR	Date	18.02.24
Checked	ML	Date	18.02.24
Design	AR	Date	18.02.24
Checked	ML	Date	18.02.24
Approved	ML	Date	18.02.24

Client	ENERGY QUEENSLAND	Status	PRELIMINARY
Project	EQL MOSSMAN DEPOT LOTS 9-11 & 16-18 ON RP715930 THOMAS & INGLES STREET & ADJACENT LEASE AREA	NOT TO BE USED FOR CONSTRUCTION PURPOSES	
Title	CROSSOVER SECTION PLAN	Scale	AS SHOWN
Revision		Size	A1
Drawing Number	Q22020-CI-04	Revision	A



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 User: thor@mal.com  
 Project: AS240434 - EDL Mossman Depot - LOD 1. Models\as\240434-EDL\AS240434-EDL.dwg

### EARTHWORKS NOTES:

- A SOILS INVESTIGATION REPORT REF: 22320.00 DATED JULY 2023 HAS BEEN CARRIED OUT BY DOUGLAS PARTNERS.
- BULK EARTHWORKS IS TO BE CARRIED OUT IN ACCORDANCE WITH THE REQUIREMENTS OF AS 3798 AND THE GEOTECHNICAL REPORT. REFER CIVIL DRAWINGS FOR ADDITIONAL EARTHWORKS NOTES AND FILLING REQUIREMENTS.
- MATERIAL WITH LESS THAN 100% PL SHOULD BE REMOVED AND A GRANULAR FILL (CBR 15) PLACED AND COMPACTED.
- THE CONTRACTOR SHALL ALLOW TO PAY ALL ASSOCIATED COSTS TO ENGAGE AN APPROVED GEOTECHNICAL CONSULTANT TO CARRY OUT ALL INSPECTIONS, TESTING AND CERTIFICATIONS AS NECESSARY OF THE EARTHWORKS SHOWN IN THE DOCUMENTATION.
- THE GEOTECHNICAL ENGINEER SHALL PROVIDE ALL SERVICES AS REQUIRED TO SATISFY LEVEL 1 SUPERVISION AS SPECIFIED IN AS3798. THE CONTRACTOR SHALL PROVIDE DETAILS OF ALL TESTING TO THE ENGINEER PROGRESSIVELY THROUGHOUT THE WORKS AND NOTIFY THE ENGINEER OF ANY NON CONFORMANCE. ALL NON CONFORMING WORKS IS TO BE RECTIFIED AT THE CONTRACTORS EXPENSE.
- FOLLOWING THE COMPLETION OF THE EARTHWORKS AND INSTALLATION OF FOOTINGS AND SERVICES THE CONTRACTOR SHALL PROVIDE WRITTEN CERTIFICATION FROM THE GEOTECHNICAL CONSULTANT STATING THAT ALL EARTHWORKS AND FOUNDATION MATERIAL SUPPORTING FOOTINGS COMPLES WITH THE REQUIREMENTS OF THE DOCUMENTATION AND AS3798.
- PRIOR TO COMMENCEMENT OF WORKS THE CONTRACTOR IS TO IDENTIFY AND BE SATISFIED OF THE CORRECT LOCATIONS OF ALL EXISTING SERVICES WHETHER INDICATED OR NOT ON THE PLANS. ANY DAMAGE TO EXISTING SERVICES IS TO BE RECTIFIED AS SOON AS POSSIBLE AT THE CONTRACTORS EXPENSE.
- REMOVE ALL VEGETATION, ORGANIC TOPSOIL, AND OTHER DELETERIOUS MATERIAL AND DISPOSE OF ALL SPOIL MATERIAL OFF SITE. EXCAVATE AND TRIM THE BUILDING OR PAVEMENT PLATFORMS AS REQUIRED.
- PROOF ROLL THE EXPOSED SUBGRADE IN THE PRESENCE OF A GEOTECHNICAL ENGINEER TO IDENTIFY ANY SOFT SPOTS. THESE AREAS MUST BE INSPECTED BY THE GEOTECHNICAL ENGINEER TO ASSESS EXTENT.
- SOFT SPOTS SHALL BE EXCAVATED AND REPLACED WITH SELECT GRANULAR BACKFILL COMPACTED IN LAYERS NOT EXCEEDING 150mm COMPACTED THICKNESS TO COMPACTION AS NOTED.
- FILL MATERIAL SHALL BE EITHER IMPORTED SELECT MATERIAL OR EXISTING EXCAVATED SOILS (IF APPROVED BY THE GEOTECHNICAL ENGINEER & FREE OF ORGANIC MATERIAL) IMPORTED FILL MATERIAL SHALL BE LOW PLASTICITY, GRANULAR FILL HAVING THE FOLLOWING CHARACTERISTICS:  
 MINIMUM CBR 15%  
 PLASTICITY INDEX <15%  
 % PASSING 0.075mm sieve <5%
- FILL MATERIAL SHALL BE COMPACTED IN MAXIMUM 200mm THICK LAYERS (COMPACTED THICKNESS) TO 98% STANDARD DRY DENSITY RATIO IN ACCORDANCE WITH AS1288 U.N.O.
- SUB-BASE FILL MATERIAL SHALL HAVE MINIMUM CBR 15% AND MAX PLASTICITY INDEX OF 15% AND IS TO BE PLACED TO FINAL THICKNESS AS DOCUMENTED COMPACTED TO 100% STANDARD MAXIMUM DRY DENSITY IN ACCORDANCE WITH AS1288 U.N.O.
- FILL SHALL BE COMPACTED AND MAINTAINED AT MOISTURE CONTENTS AT PLACEMENT WITHIN THE RANGE OF PLUS 2% TO MINUS 2% OF STANDARD OPTIMUM MOISTURE CONTENT.
- THE MINIMUM FREQUENCY OF TESTING FILL COMPACTION SHALL BE IN ACCORDANCE WITH TABLE B.1 OF AS3798 FOR TYPE 2 EARTHWORKS.
- ALL EXCAVATED BATTERS AND FILL EMBANKMENTS ARE TO BE INSPECTED AND APPROVED BY THE GEOTECHNICAL ENGINEER.
- REFER ALSO ARCHITECTS, LANDSCAPE ARCHITECTS AND HYDRAULICS ENGINEER FOR ADDITIONAL WORKS AND REQUIREMENTS.
- PRIOR TO COMMENCEMENT OF WORK CONFIRM ALL BULK EXCAVATION LEVELS WITH THE ARCHITECT AND CIVIL DRAWINGS.
- IT IS THE CONTRACTORS RESPONSIBILITY TO PROTECT THE SITE AND SURROUNDING AREAS FROM DAMAGE RESULTING FROM STORMWATER RUNOFF. TEMPORARY DIVERSION DRAINS AND OR OTHER DRAINAGE CONTROL DEVICES ARE TO BE IMPLEMENTED BY THE CONTRACTOR DURING CONSTRUCTION TO MINIMISE THE EFFECTS OF WEATHER.



**CERTIFICATION**

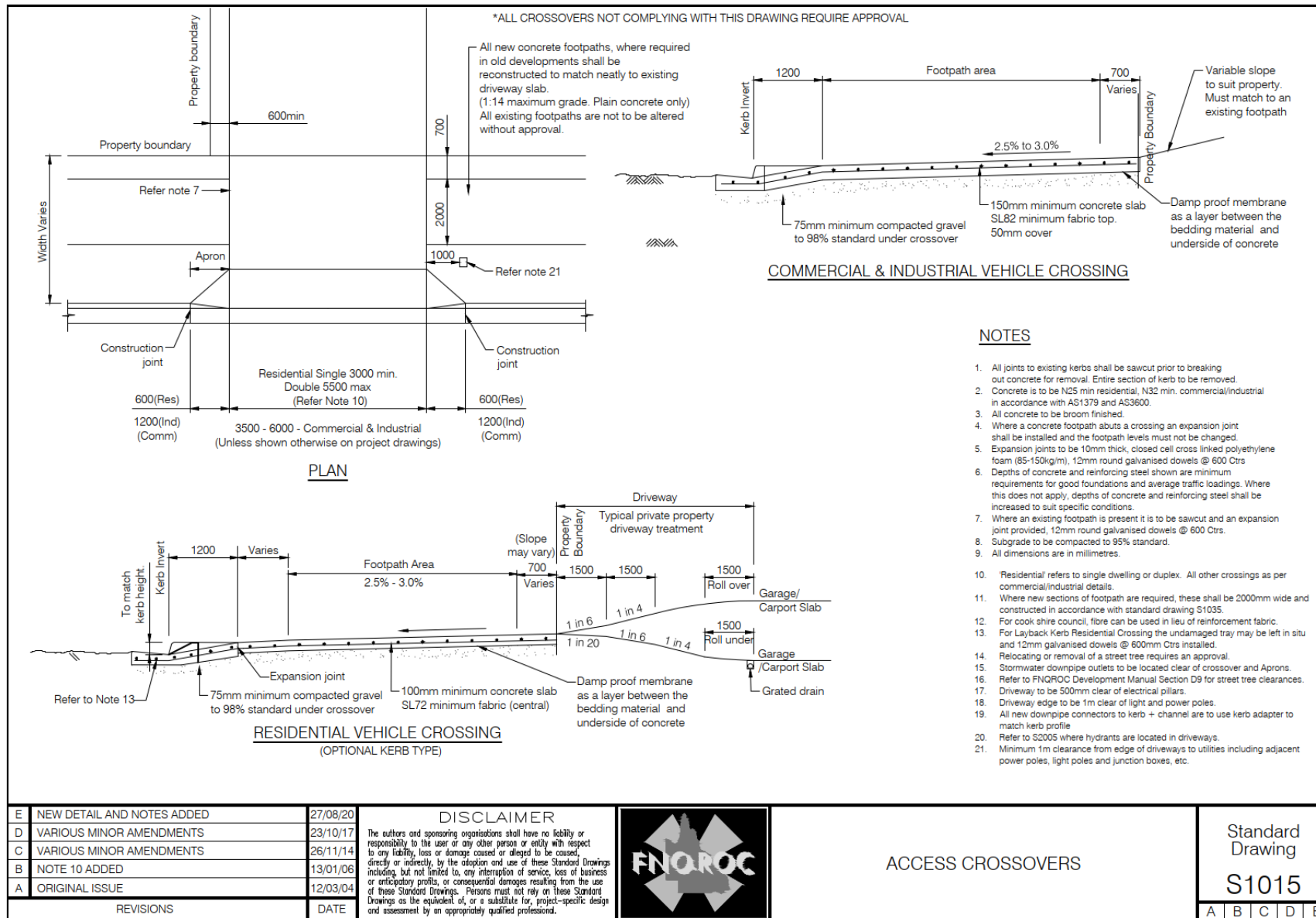
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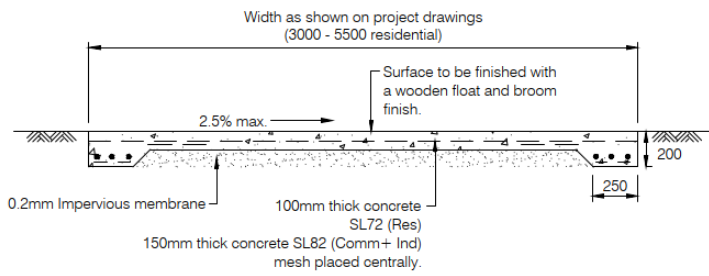
Drawn	Date
MB	12.2.24
Checked	Date
MB	12.2.24
Checked	Date
MB	12.2.24
Issued	Date
MB	12.2.24
Approved	Date
M. LANZINI	XXX

<b>ENERGY QUEENSLAND LIMITED</b>		Status: <b>PRELIMINARY</b>	
Project: MOSSMAN DEPOT PROPOSED WORKS THOMAS & INGLES STREETS, & ADJACENT LEASE AREA			
NOT TO BE USED FOR CONSTRUCTION PURPOSES			
Client	From	Rev	
AHD	AS SHOWN	A1	
Drawing Number	Revision		
Q24034-ST-02			1

# FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access



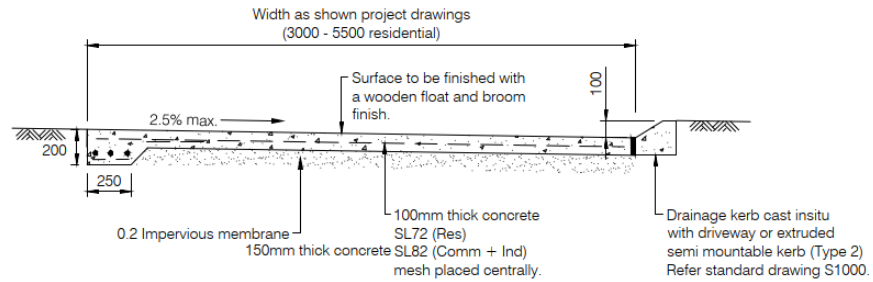




**CONCRETE DRIVEWAY - TYPE 1**

(Without drainage)

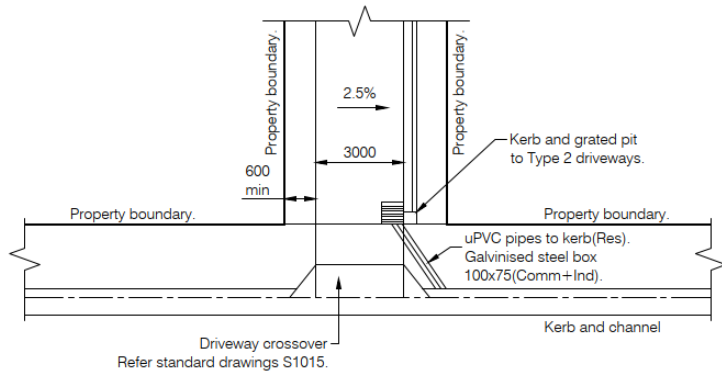
F8 TM 3BAA (Res)  
F11 TM 3BAA (Comm + Ind)



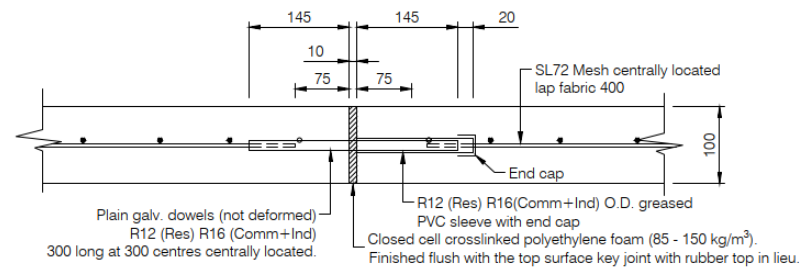
**CONCRETE DRIVEWAY - TYPE 2**

(With drainage)

Closed cell cross linked polyethylene foam  
with 12mm galvanised dowels @ 600mm Ctrs

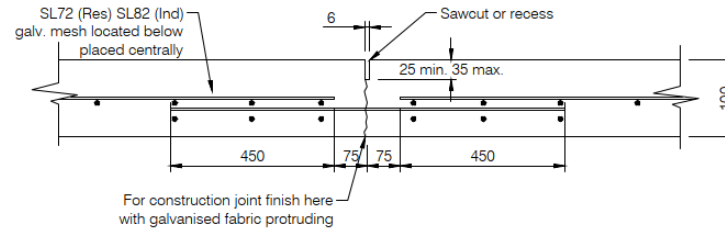


**TYPICAL DRIVEWAY LAYOUT**



**EXPANSION JOINT**

Spacing 16000 max.



**CONTRACTION JOINT**

Spacing 4000 max.

**NOTES**

1. For driveway alignment, longitudinal grade and associated drainage details refer project drawings.
2. Concrete is N25 in accordance with AS 1379 and AS 3600.
3. Construction joints shall be provided at 4.0m max. Ctrs with expansion joints or approved equivalent @ 16.0m max. Ctrs.
4. All dimensions to be in millimetres.
5. 'Residential' refers to single dwelling/duplex.
6. For commercial or industrial driveways 150mm thick N32 concrete and SL82 mesh.
7. Access to Gross Pollutant Traps (GPT) to be min 3.5m wide to commercial/ industrial driveway standard.
8. All grates within driveway/roadway are to be Class D for vehicle traffic.

REVISIONS	DATE
E VARIOUS AMENDMENTS	23/10/17
D MINOR AMENDMENTS	26/11/14
C TYPES 1 AND 2 REVISED, NOTE 3 AMENDED	01/02/06
F NOTE ADDED	27/08/20

**DISCLAIMER**  
The authors and sponsoring organisations shall have no liability or responsibility to the user or any other person or entity with respect to any liability, loss or damage caused or alleged to be caused, directly or indirectly, by the adoption and use of these Standard Drawings including, but not limited to, any interruption of service, loss of business or anticipatory profits, or consequential damages resulting from the use of these Standard Drawings. Persons must not rely on these Standard Drawings as the equivalent of, or a substitute for, project-specific design and assessment by an appropriately qualified professional.



**CONCRETE DRIVEWAY  
FOR ALLOTMENT ACCESS**

Standard  
Drawing  
**S1110**

F	C	D	E
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Louise Stayte- Planning Officer  
Planning Services Section - ☎ (07) 4099 9456  
planning@dsc.qld.gov.au

MCUC 006/06

Ergon Energy Corporation Ltd  
C/- Peter Robinson Planner  
PO Box 4751  
CAIRNS QLD 4870

19<sup>th</sup> February 2007

**INTEGRATED PLANNING ACT  
NEGOTIATED DECISION NOTICE  
DEVELOPMENT APPLICATION**

**Applicant's Name** : Ergon Energy Corporation Ltd  
**Owner's Name** : Ergon Energy Corporation Ltd  
Adelaide Rossi  
Peer Janssen & Annamaria D Tamus  
**Proposal** : Public Utilities and Facilities (Ergon Depot)  
**Application Number** : MCUC 006/06  
**Site Address** : 24-28 Thomas Street & 8-10 Ingles Street, Mossman  
**Property Description** : Lot 9-11 & Lots 16-18 on RP715930, Parish of Victory,  
County of Solander

**1. Decision:** **Decision Date:** 14<sup>th</sup> December 2006

Approved subject to Conditions

**2. Type of Development Approval:**

Material Change of Use

Development Permit

.../2.

**3. Referral Agency:**

Environmental Protection Agency  
ECSU  
PO Box 155  
BRISBANE QLD 4002

**4. Conditions**

**Material Change Of Use:**

**Plan of Development**

1. The approved development and the conduct of the approved use, the carrying out of any works on the premises and the construction of any buildings on the premises associated with the development must generally be in accordance with:
  - (b) The approved plan of development Drawings No.882 P3 & P4 dated September 2006 prepared by Clarke and Prince Architects attached to this approval;
  - (c) The plans and specifications submitted with the application to Council attached to this approval

Except where such plans and/or specifications are modified by the terms of this approval.

**Currency Period**

2. This development approval lapses four (4) years after the day that the development approval takes effect, unless the use has substantially commenced or this period is extended under Section 3.5.22 of the *Integrated Planning Act 1997*.

**Advertising Signage**

**Advice**

The erection and display of an advertising device(s) and or sign(s) requires a further development permit for operational works (signage). This permit must be obtained prior to the erection of any advertising services or signs on the premises.

**Amenity**

3. The approved use must not be conducted so as to cause a nuisance or annoyance to persons not associated with the business and so as not to adversely affect any other property.

.../3

**Traffic Management**

4. The applicant shall provide bollard lighting at the property boundary to indicate access to the car parking area at the time of applying for carrying out building works.

**Landscaping**

5. The applicant shall prepare a detailed landscaping plan for the subject site. This landscaping plan is to be designed in accordance with the requirements of the Planning Scheme and Planning Scheme Policy No.7 – Landscaping. This plan shall be submitted to Council for approval prior to the issuing of a Building Approval.
6. The landscape areas adjoining the car parking area shall be protected from vehicles by a 150mm high vertical concrete kerb or similar obstruction.
7. The landscaping shown on an approved plan shall be completed before the development is occupied and maintained thereafter.

**Waste Storage & Discharge**

8. The waste oil treatment area and washdown bay must be connected to a legal sewer connection so any waste water and/or oil is disposed of to the sewer. An approved waste oil separator must be installed prior to the discharge point to the sewer.
9. The vehicle washdown area is to be roofed or a trade waste diversion valve installed, and the balance of the hardstand area graded to prevent ingress of stormwater in to the collection pits shown on the approved plan.
10. Waste water and oil generated by the proposed development must be discharged to Council's sewer in accordance with the *Environmental Protection Act 1994*.

**Air Conditioning & Service Equipment**

11. All service equipment, outdoor lighting and air conditioning equipment must be located so as not to cause a nuisance to the occupants of adjoining units or neighbouring premises. The noise levels shall be maintained in accordance with the requirements of the Environmental Protection Policy - Noise.

**Water and Sewerage**

12. No additional external structural loads are permitted to be applied to Council's existing sewer as a consequence of the approved development.

...//4

13. The existing 225mm sewer line is to be relocated a minimum of 3metres outside of the proposed building line and relayed to the northern boundary in ductile iron. Refer to Attachment B for preliminary details.
14. All necessary fees for the inspection for the sewer relocation works are to be determined at the time of undertaking the works and paid to Council.
15. The eastern wall of the proposed building is to have the footings engineered with piers founded below the level of the relocated sewer line.
16. The existing water service and meter are to be upgraded so as to meter both the fire and domestic water supply.

#### **Stormwater Drainage**

17. All stormwater run-off from non-permeable surfaces and roof areas occurring on the site must be collected within the premises and discharged to the legal and practical point of discharge which has been nominated as Thomas Street and Ingles Street.
18. The approved use must not:
  - (a) Interfere with the natural flow of stormwater;
  - (b) cause ponding of stormwater on adjoining properties.

#### **Demolition of Existing Buildings**

19. All buildings and other structures must be removed in accordance with the requirements of a development permit for building work (demolition).

#### **Environmental Management Plan**

20. An Environmental Management Plan (EMP) is to be submitted to Council's Environmental Health section prior to any works being carried out on the site. No works are to be carried out on the site until such time as the applicant has received written approval from Council's Manager Environmental Health that the EMP has been approved.

The EMP must detail:-

- Establish performance criteria and objectives in relation to environmental and social impacts
- prevention, minimisation and mitigation strategies for controlling environmental impacts and preventing nuisance caused from the reconfiguration of the land and construction works. In particular, this plan **must** address such issues as dust suppression, vegetation clearing and disposal, waste disposal, noise management and stormwater management (to minimise discharges of sediment, wastes and other substances).
- proposed monitoring of the effectiveness of remedial measures against performance criteria

...//5

- details of responsible persons for environmental management
- reporting requirements for meeting performance criteria
- corrective actions to rectify deviations from performance criteria

The EMP must be implemented **before** any works commence on the site and throughout the duration of works on the site.

#### **Contaminated Land**

21. A soil test, with samples from the area to be excavated, is required to be undertaken to determine if any contaminants are present in soil to be removed from the site.
22. Any contaminated soils to be removed from site are to be transferred to an appropriately licensed waste disposal facility.

#### **Amalgamation**

23. Lots 9-11 and Lots 16-18 on RP 715930 must be amalgamated into one allotment. The Plan of Survey must be registered with the Department of Natural Resources and Mines prior to the issue of a development permit for building work or commencement of building work.

#### **Footpath Damage Liability**

24. All damage occasioned to footpaths and roadways adjacent to the site as a result of or in connection with this development must be repaired by the applicant, at their expense, prior to completion of works associated with the development.

#### **Compliance**

25. All works required pursuant to the above conditions shall be undertaken and completed in accordance with Council's requirements contained in the Planning Scheme Provisions/Codes.
26. Unless otherwise specified in this development permit, the conditions of this permit must be complied with prior to the commencement of the approved use.

#### **Car Parking**

27. A car parking area shall be constructed, sealed, drained and line marked in accordance with the approved plan of development and relevant Australian Standards and maintained thereafter.

#### **External Works**

28. All vehicle crossovers and access ways are to be constructed in accordance with the FNQROC Development Manual for industrial access. Redundant vehicle crossovers are to be reinstated with kerb and channel.

...//6

29. Details and specifications for the above works shall be shown on the plans for building work. The execution of works external to the site and associated with carparking shall be supervised by a Registered Engineer and all work detailed on a Certificate of Supervision for the development.
30. Frontage of Thomas Street to be bitumen widened to kerb for the full frontage of the development. This work to include the following:
  - Bitumen widening to kerb of Thomas Street for the full frontage of the site in accordance with the FNQROC Development Manual.
  - Design drawings to be submitted for Operational Works Approval

### **Headworks**

31. The applicant shall pay to the Council headworks contributions for water supply and sewerage in accordance with Council's Local Planning Policy: *"Determination of Contributions for Water Supply and Sewerage Headworks and External Works"* ("The Policy").

The contribution shall be calculated at the rate per Equivalent Domestic Connection ("EDC") applicable at the time of payment in accordance with the Policy. Headworks are to be paid prior to the issuing of a Development Permit for Building Work.

For information purposes only:

The current numbers of EDC's for the approved use are:

- a) Water supply 2
- b) Sewerage 2

### **Concurrence Agency Conditions**

32. The Environmental Protection Agency (Contaminated Lands Unit) was triggered as a Concurrence Agency for this development. The Agency's conditions of approval are included in Appendix A.

### **Security Bonds**

33. To guarantee the satisfactory completion of the building, site works, landscaping, drainage works and any required works external to the land, and to ensure payment of headworks contribution, the applicant shall lodge with the Council a Cash Bond or Guarantee to the value of \$18 000, such Guarantee shall be lodged prior to the issue of a Development Approval for Building Works on the land in relation to this Development Permit. The Council may call up this Guarantee to complete all or any part of the works mentioned herein in accordance with the conditions of this approval, should the applicant fail to do so prior to issuing of a Development Permit for Building Work.

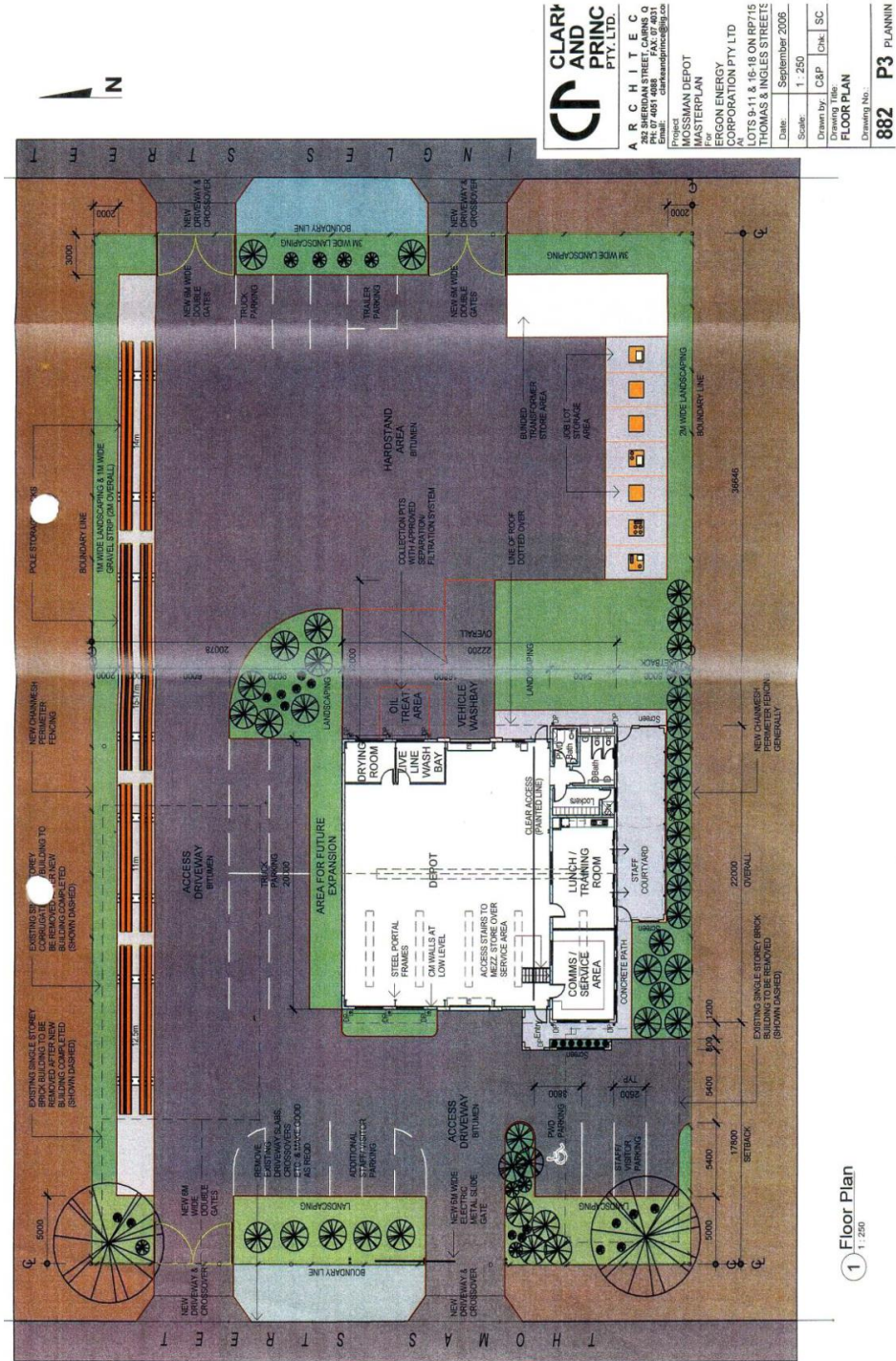


**5. Further Development Approvals Required:**

Reconfiguring a Lot  
Building Permit  
Operational Works

Development Permit  
Development Permit  
Operational Works Permit

Paul Trotman  
**General Manager – Development & Environment**



**CLARI AND PRINC PTY. LTD.**  
**A R C H I T E C T S**  
 242 SANDRA STREET, LAUNCESTON  
 PH: 07 461 4888 FAX: 07 461 4211  
 PROJECT: clariprinc@cleariprinc.com.au

**MOSSMAN DEPOT MASTERPLAN**  
**ERGON ENERGY CORPORATION PTY LTD**  
 LOTS 9, 11 & 16, 18 ON RP715  
 THOMAS & INGLES STREETS  
 Date: September 2009  
 Scale: 1:250  
 Drawn by: C&P  
 Drawing Title: FLOOR PLAN  
 Drawing No.: 882 P3 PLANNING

Figure 1. Site Plan

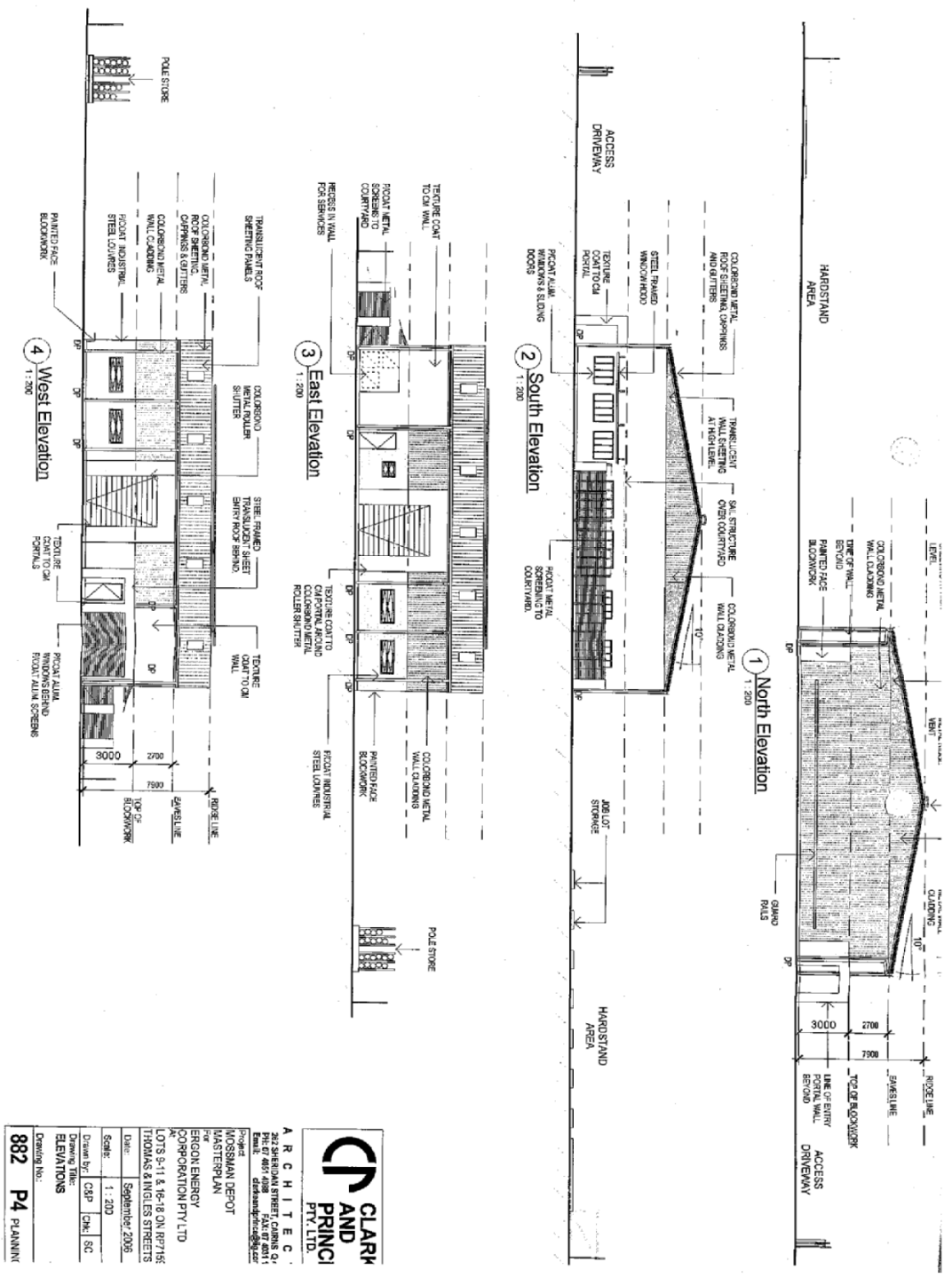


Figure 2. Elevations of Proposed Shed

ATTACHMENT A

Southern Regional Office (Brisbane)  
GPO Box 2771 BRISBANE QLD 4001  
Phone: (07) 3225 1827 Fax: (07) 3247 3278  
www.env.qld.gov.au ABN:87221158786



**Notice of concurrence agency response**  
**Sections 3.3.16 and 3.3.18 Integrated Planning Act 1997**

This notice is issued by the administering authority pursuant to sections 3.3.16 and 3.3.18 of the *Integrated Planning Act 1997*, to advise you of a decision or action.

Enquiries to: Angelina Bismarck  
Telephone: (07) 3224 8244 e-mail: angelina.bismarck@epa.qld.gov.au  
Your reference: MCUC 006/06  
Our reference: Appl'n: 13554 Part 1 File No.: BNE29522

DOUGLAS SHIRE COUNCIL	
RECEIVED	
FILE NAME: MCUC Planning	Mr Peter Robinson Ergon Energy Corporation Ltd
DOCUMENT NO: CAJRN5	P.O. Box 4751 CAJRN5, QLD 4870
22 NOV 2006	
ATTENTION: LS	
INFORMATION	

Douglas Shire Council  
PO Box 357  
MOSSMAN QLD 4873

Attention: Ms Louise Stoyte

**Re: Application (No. MCUC 006/06) for development approval for assessable development to be carried out at 24 - 28 Thomas Street and 8 - 10 Ingles Street, Mossman (Lots 9 - 11 & 16 - 18 on RP715930).**

Pursuant to the following items of Table 2 Schedule 2 of the *Integrated Planning Regulation 1998*, the Environmental Protection Agency - Contaminated Land Unit is a concurrence agency for the development application:

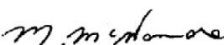
- Item 21, Table 2 of Schedule 2 of the *Integrated Planning Regulation 1998*
- Item 22, Table 2 of Schedule 2 of the *Integrated Planning Regulation 1998*

The Environmental Protection Agency - Contaminated Land Unit (EPA-CLU), acting as a concurrence agency under the *Integrated Planning Act 1997*, provides its response to the application detailed above as attached.

It would be appreciated if Council could provide a signed hard copy of the final development approval issued by Council (which includes the Agency's concurrence conditions).

The EPA has not provided a notification to native title parties for this application. The State's Native Title Work Procedures indicate that responsibility for assessment of native title issues for an IDAS application rest with the Assessment Manager. It is recommended that you undertake an assessment using your own guidelines to determine if a native title notification is required for this application.

Should you require any further information please do not hesitate to contact the above officer on the telephone number or e-mail address provided .


17/11/2006  
 \_\_\_\_\_  
 Signed Date

**Delegate of Administering Authority**  
**Environmental Protection Act 1994.**

Council Application Number: MCUC 006/06  
EPA Application Number: 13554 Part 1

**Concurrence agency response**  
**Sections 3.3.16 and 3.5.18 *Integrated Planning Act 1997***

**Applicant:** Ergon Energy Corporation Ltd  
**Council Application Number:** MCUC 006/06  
**EPA Application Number:** 13554 Part 1  
**Date application received by EPA:** 24/10/2006  
**Relevant Laws and Policies:** *Environmental Protection Act 1994*  
**Jurisdiction:** Chapter 7, Part 8 *Environmental Protection Act 1994*

**Development Description:**

Material Change of Use - Public utilities and facilities

where:

- the existing use of the land is, or if the land is vacant land with no existing use the most recent use of the land was, for a notifiable activity under the *Environmental Protection Act 1994*.
- the proposed use of the land is for child care, educational, recreational, residential or similar purposes and the existing use of the land is, or if the land is vacant land with no existing use the most recent use of the land was, for an industrial activity.
- the land is on the Environmental Management Register or Contaminated Land Register under the *Environmental Protection Act 1994*.
- the land is wholly or partly within an area for which an Area Management Advice for industrial activity or natural mineralisation has been issued and the proposed use of the land is for child care, educational, recreational, residential or similar purposes.
- the land is wholly or partly in an area for which an Area Management Advice for unexploded ordnance has been issued.

at the following place(s):

24 - 28 Thomas Street and 8 - 10 Ingles Street, Mossman  
(Lots 9 - 11 & 16 - 18 on RP715930)

**Response to Development Application**

The Environmental Protection Agency, acting as a concurrence agency under the *Integrated Planning Act 1997*, provides its response to the application detailed above.

The concurrence agency response is that

- conditions must attach to any development approval
- any approval must be for part only of the development
- any approval must be a preliminary approval only
- there are no concurrence agency requirements
- the application must be refused

Page 2 of 3

**Conditions of the development approval**

If during any site earthworks or excavation, offensive or noxious odours and/or evidence of gross contamination not previously detected is observed, site works are to cease in that area and action taken to immediately abate the potential environmental harm. The administering authority is to be notified in writing within two (2) business days of detection and advised of appropriate remedial action.

**Additional comments or advice about the application**

Any remedial action is to be developed by an appropriate qualified and experienced person in accordance with Section 381 of the EP Act.

**Reasons for inclusion of development conditions or refusal**

In accordance with section 3.3.18 of the *Integrated Planning Act 1997* and section 27B of the *Acts Interpretation Act 1954*, a concurrence response must include reasons for a refusal or for the inclusion of development conditions.

The Environmental Protection Agency is recognised as a concurrence agency under the *Integrated Planning Regulation 1998* for the protection of the environment by the management of contaminated land. The Environmental Protection Agency concurrence agency conditions for this proposed development that are contained within this response are required to prevent or mitigate any potential risk to human health or the environment from possible hazardous contaminants present on the site.

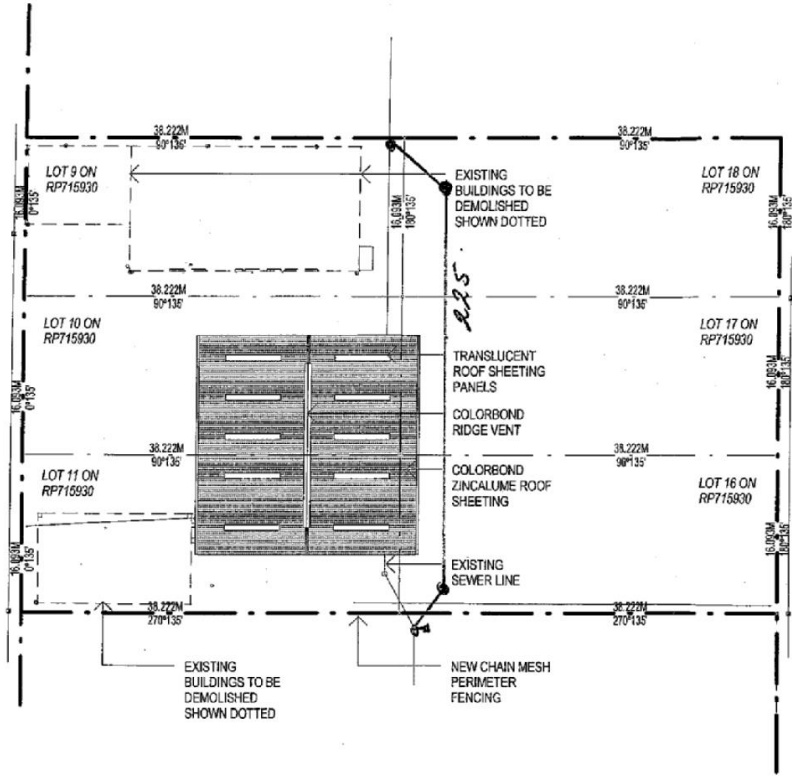
**Additional information for applicants**

This concurrence response pursuant to Chapter 7, Part 8 of the *Environmental Protection Act 1994* applies only to contaminated land issues and does not remove the need to obtain any further approval for this development which may be required by this or other legislation, State and/or Commonwealth. Applicants are advised to check with all relevant statutory authorities for such approvals as may be required.

~ End of Concurrence Agency Response ~

A.

*Building platform to be pured and engineered  
on engineer and sewer to be relocated*

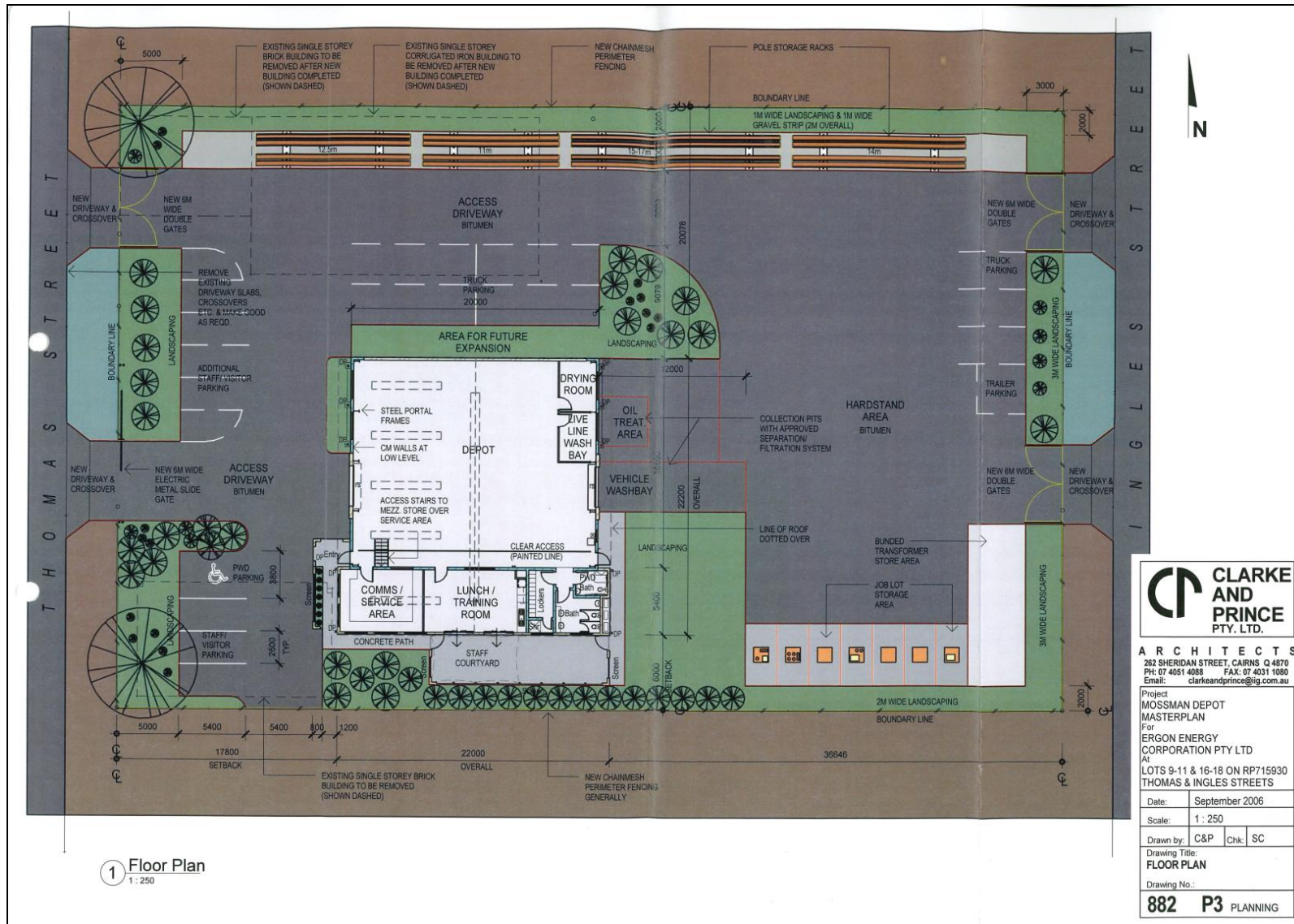


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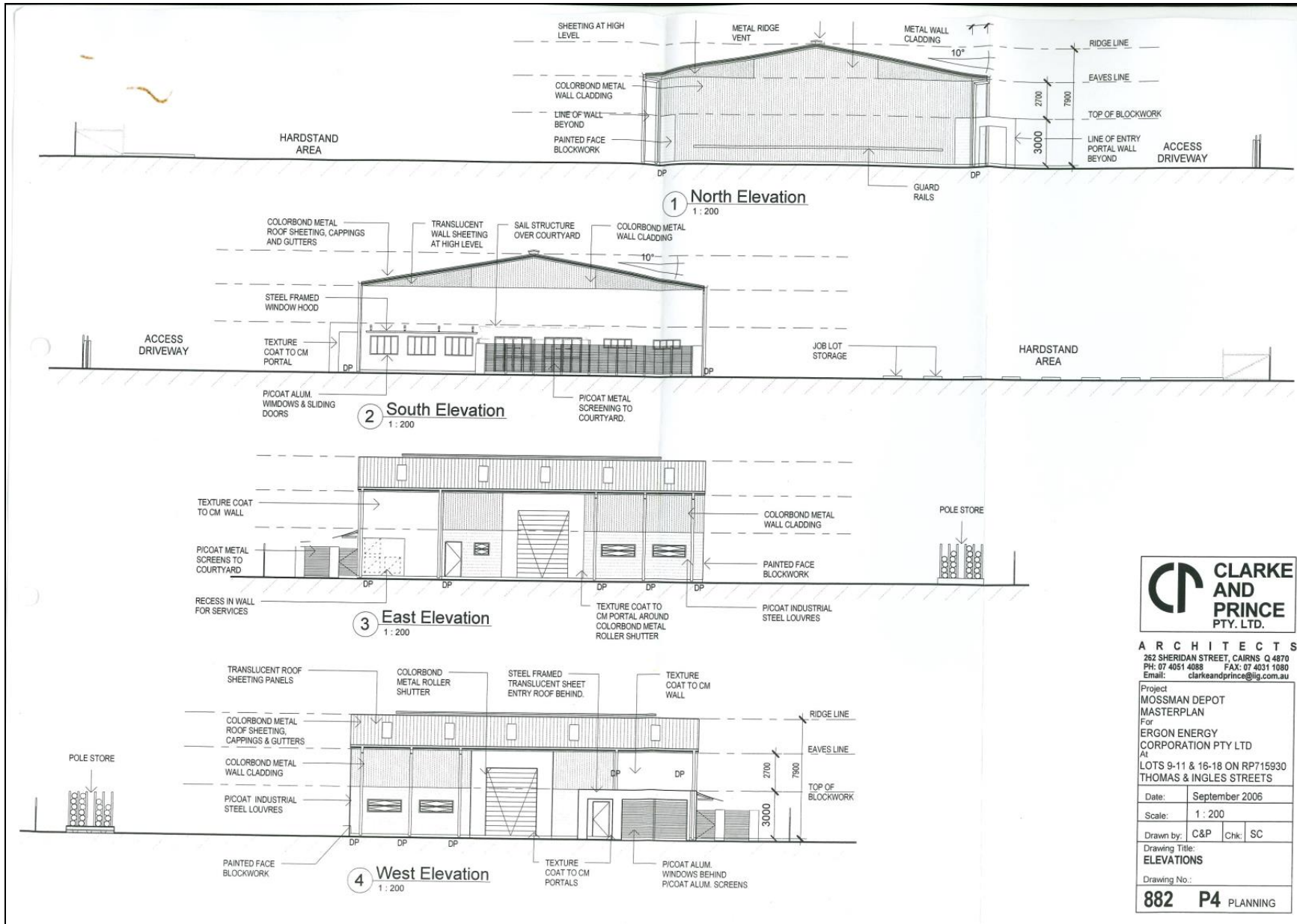
① Site / Roof Plan  
1:500

ATTACHMENT B

# Original Plans







**CLARKE AND PRINCE**  
PTY. LTD.

**A R C H I T E C T S**

262 SHERIDAN STREET, CAIRNS Q 4870  
PH: 07 4051 4088 FAX: 07 4031 1080  
Email: clarkandprince@ig.com.au

Project  
MOSSMAN DEPOT  
MASTERPLAN  
For  
ERGON ENERGY  
CORPORATION PTY LTD  
At  
LOTS 9-11 & 16-18 ON RP715930  
THOMAS & INGLES STREETS

Date: September 2006

Scale: 1 : 200

Drawn by: C&P Chk: SC

Drawing Title:  
**ELEVATIONS**

Drawing No.:

**882 P4** PLANNING

## Reasons for Decision

1. The reasons for this decision are:
  - a. Sections 78, 79, 81 and 81A of the *Planning Act 2016*;
  - b. to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme Version 1.0; and
  - c. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
  - a. the change application as properly lodged to the Douglas Shire Council on 23 February 2024 under sections 78 and 79 of the *Planning Act 2016*;
  - b. the applicant's representations for a change to the negotiated decision contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy, the 2006 Douglas Shire Planning Scheme and the 2018 Douglas Shire Planning Scheme Version 1.0 in making its assessment manager decision;
3. Evidence or other material on which findings were based:
  - a. the development triggered assessable development under the Assessment Table associated with the Industry Zone Code and the Special Purpose Zone;
  - b. Council undertook an assessment in accordance with the provisions of section 81 and 81A of the *Planning Act 2016*; and
  - c. the applicant's reasons have been considered and the following findings are made:
    - i. Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.

## Non-Compliance with Assessment Benchmarks

## Division 2 Changing development approvals

### Subdivision 1 Changes during appeal period

#### 74 What this subdivision is about

- (1) This subdivision is about changing a development approval before the applicant's appeal period for the approval ends.
- (2) This subdivision also applies to an approval of a change application, other than a change application for a minor change to a development approval.
- (3) For subsection (2), sections 75 and 76 apply—
  - (a) as if a reference in section 75 to a development approval were a reference to an approval of a change application; and
  - (b) as if a reference in the sections to the assessment manager were a reference to the responsible entity; and
  - (c) as if a reference in section 76 to a development application were a reference to a change application; and
  - (d) as if the reference in section 76(3)(b) to section 63(2) and (3) were a reference to section 83(4); and
  - (e) with any other necessary changes.

#### 75 Making change representations

- (1) The applicant may make representations (*change representations*) to the assessment manager, during the applicant's appeal period for the development approval, about changing—
  - (a) a matter in the development approval, other than—
    - (i) a matter stated because of a referral agency's response; or

- 
- (ii) a development condition imposed under a direction made by the Minister under chapter 3, part 6, division 2; or
  - (b) if the development approval is a deemed approval—the standard conditions taken to be included in the deemed approval under section 64(8)(c).
- (2) If the applicant needs more time to make the change representations, the applicant may, during the applicant's appeal period for the approval, suspend the appeal period by a notice given to the assessment manager.
- (3) Only 1 notice may be given.
- (4) If a notice is given, the appeal period is suspended—
- (a) if the change representations are not made within a period of 20 business days after the notice is given to the assessment manager—until the end of that period; or
  - (b) if the change representations are made within 20 business days after the notice is given to the assessment manager, until—
    - (i) the applicant withdraws the notice, by giving another notice to the assessment manager; or
    - (ii) the applicant receives notice that the assessment manager does not agree with the change representations; or
    - (iii) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
- (5) However, if the assessment manager gives the applicant a negotiated decision notice, the appeal period starts again on the day after the negotiated decision notice is given.

## **76 Deciding change representations**

- (1) The assessment manager must assess the change representations against and having regard to the matters that

- must be considered when assessing a development application, to the extent those matters are relevant.
- (2) The assessment manager must, within 5 business days after deciding the change representations, give a decision notice to—
    - (a) the applicant; and
    - (b) if the assessment manager agrees with any of the change representations—
      - (i) each principal submitter; and
      - (ii) each referral agency; and
      - (iii) if the assessment manager is not a local government and the development is in a local government area—the relevant local government; and
      - (iv) if the assessment manager is a chosen assessment manager—the prescribed assessment manager; and
      - (v) another person prescribed by regulation.
  - (3) A decision notice (a *negotiated decision notice*) that states the assessment manager agrees with a change representation must—
    - (a) state the nature of the change agreed to; and
    - (b) comply with section 63(2) and (3).
  - (4) A negotiated decision notice replaces the decision notice for the development application.
  - (5) Only 1 negotiated decision notice may be given.
  - (6) If a negotiated decision notice is given to an applicant, a local government may give a replacement infrastructure charges notice to the applicant.

---

## Chapter 6 Dispute resolution

### Part 1 Appeal rights

#### 229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
  - (a) matters that may be appealed to—
    - (i) either a tribunal or the P&E Court; or
    - (ii) only a tribunal; or
    - (iii) only the P&E Court; and
  - (b) the person—
    - (i) who may appeal a matter (the *appellant*); and
    - (ii) who is a respondent in an appeal of the matter; and
    - (iii) who is a co-respondent in an appeal of the matter; and
    - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
  - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
  - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or

- (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
  - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
  - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
  - (iii) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
  - (iv) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

*Note—*

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.

- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
  - (a) the adopted charge itself; or
  - (b) for a decision about an offset or refund—
    - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
    - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

### **230 Notice of appeal**

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
  - (a) the respondent for the appeal; and
  - (b) each co-respondent for the appeal; and
  - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
  - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and



- (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
  - (f) for an appeal to the P&E Court—the chief executive; and
  - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
  - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
- (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
  - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department’s website for this purpose.

### **231 Non-appealable decisions and matters**

- (1) Subject to this chapter, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.

- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—  
**decision** includes—
  - (a) conduct engaged in for the purpose of making a decision; and
  - (b) other conduct that relates to the making of a decision; and
  - (c) the making of a decision or the failure to make a decision; and
  - (d) a purported decision; and
  - (e) a deemed refusal.**non-appealable**, for a decision or matter, means the decision or matter—
  - (a) is final and conclusive; and
  - (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
  - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

## 232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.